

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

MADHU JAIN,	)
PLAINTIFF	)
v.	)
A CAPE ANN WHALE	)
WATCH, INC.	)
DEFENDANT	)

C.A. No. 05 11267 MEL

**PLAINTIFF'S MOTION IN LIMINE TO STRIKE PORTIONS OF DAVID DUBOISE  
TESTIMONY**

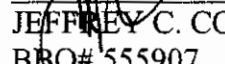
Now comes the plaintiff and respectfully moves in limine to exclude the defendant's witness from testifying in the trial of this matter as an expert relative to the following subjects:

Dubois is not qualified or is otherwise precluded from offering his opinion on the following subjects (1) he is not qualified to testify that diamond plate aluminum, in general, is "manufactured and specified" for providing increased traction because he is not an expert in the manufacturing of or the specifying of uses for diamond plate aluminum in general (2) he is not qualified to testify about custom and usage of diamond plate aluminum in weather exposed installations in general (3) he is not qualified or permitted to testify as to what actions are "reasonably prudent" as this is conclusory legal terminology that removes the question of negligence from the fact finder (4) he is not an expert in biomechanics who is qualified to testify on the subject of the sufficiency of handrails relative to human balance (5) he cannot testify as to his own opinion as to whether the plaintiff disregarded instructions to hold the rails as this is a question of fact the understanding of which is in the realm of understanding of laypersons (6) he cannot testify as to his own opinion as to reasonableness of or presence of employees by the ramp as reasonableness is for the jury to determine and the absence or presence of

employees is a question of fact the understanding of which is in the realm of understanding of laypersons.

WHEREFORE, the plaintiff respectfully moves in limine to exclude the defendant's witness from testifying in the trial of this matter.

By the Plaintiff,

  
JEFFREY C. CONIARIS  
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June 1, 2007

**CERTIFICATE OF SERVICE**  
I hereby certify that a true copy of the above document was served upon the attorney of record for each party and any party appearing pro se by ~~first class mail, postage prepaid~~ or ~~by hand delivery~~ fax  
Dated 6/1/07 